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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,362	02/07/2005	Agnes Chardonnens	532622010300	1864
23416	7590	10/03/2006	EXAMINER	
CONNOLLY BOVE LODGE & HUTZ, LLP			KUMAR, VINOD	
P O BOX 2207			ART UNIT	
WILMINGTON, DE 19899			PAPER NUMBER	

1638

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/523,362		CHARDONNENS ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Vinod Kumar		1638	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,5,8-11,13,15,18,19,21,25,29,32,34,41,45,47 and 49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1,5,8-11,13,15,18,19,21,25,29,32,34,41,45,47 and 49 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.                                                |

## DETAILED ACTION

### *Election/Restrictions*

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Groups I-XXV, claim(s) 1, 5, 8-11, 13, 15, 18-19, 29, 32, 47 and 49 drawn to a transgenic plant cell, plant, plant expression cassette, method of making or a method of using said transgenic plant cell comprising transforming said plant cell or plant with a nucleic acid sequence encoding oxidoreductase stress-related protein as defined in SEQ ID NOs: 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43, 45, 47 and 49, respectively.

Groups XXVI-XXXII, claim(s) 21 and 25 drawn to an isolated stress related protein as defined in SEQ ID NOs: 16, 18, 20, 22, 24, 44 and 50, respectively.

Group XXXIII, claim(s) 34, 41 and 45 drawn to a method of modifying stress tolerance of a plant, comprising, modifying the level of expression of an ORSRP in the plant by antisense molecule that inhibits expression of ORSPR.

Group XXXIV, claim(s) 34, 41 and 45 drawn to a method of modifying stress tolerance of a plant, comprising, modifying the level of expression of an ORSRP in the plant by double stranded RNA molecule that inhibits expression of ORSPR.

The inventions listed as Group I-XXXIV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The technical feature linking Groups I-XXXIV appear to be components of a transgenic plant overexpressing any Oxidoreductase Stress- Related Protein (ORSRP) coding nucleic acid. However, Gupta et al. (PNAS, 90:1629-1633, 1993) teach a stress tolerant transgenic tobacco plant overexpressing chloroplastic Cu/Zn superoxide dismutase. Similarly, Foyer et al. (Plant Physiol., 109:1047-1057, 1995) teach a transgenic poplar overexpressing glutathione reductase.

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Therefore, the technical feature linking the inventions of Groups I-XXXIV does not constitute a special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art.

Applicants are reminded that different nucleotide sequences and amino acid sequences are structurally distinct chemical compounds and are unrelated to one another. These sequences are thus deemed to normally constitute different inventive concepts.

Accordingly, Groups I-XXXIV are not so linked by the same or a corresponding special technical feature as to form a single general inventive concept.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinod Kumar whose telephone number is (571) 272-4445. The examiner can normally be reached on 8.30 a.m. to 5.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on (571) 272-0803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Phuong Bui*  
8/28/06  
PHUONG T. BUI  
PRIMARY EXAMINER